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ARIZONA CORPORATE INCOME TAX RULING CTR 07-2

(Effective for income tax returns filed on or after January 1, 2008)

This substantive policy statement is advisory only. A substantive policy statement does not include internal procedural documents that only affect the internal procedures of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules made in accordance with the Arizona administrative procedure act. If you believe that this substantive policy statement does impose additional requirements or penalties on regulated parties you may petition the agency under Arizona Revised Statutes § 41-1033 for a review of the statement.

ISSUE:

When do late filing, late payment and extension underpayment penalties apply to an income tax return filed under an extension?

APPLICABLE LAW:

Arizona Revised Statutes (A.R.S.) § 42-1107 authorizes the department to grant extensions of time to file income tax returns and also imposes an extension underpayment penalty if a taxpayer fails to pay at least ninety percent of the tax disclosed on the return.

A.R.S. § 42-1125.A provides for a late filing penalty if a taxpayer fails to make and file an income tax return on or before the due date of the return or the due date as extended by the department.

A.R.S. § 42-1125.D provides for a late payment penalty if a person fails to pay the amount shown as tax on any return within the time prescribed.

A.R.S. § 43-501 prescribes when corporate income taxes are payable.

DISCUSSION:

A.R.S. § 42-1107 authorizes the department to grant extensions of time to file and also requires a taxpayer to pay at least ninety percent of the tax liability disclosed by the taxpayer's return when filing under an extension. This statute also provides that if the taxpayer pays less than ninety percent of the tax disclosed on the return, the taxpayer is subject to a penalty of one-half of one percent of the tax not paid for each 30 day period or fraction of a 30 day period elapsing between the date the return is otherwise due to be filed and the date the tax is paid. This provision grants an extension of time to file the return, but does not grant an extension of the time to pay the tax.

A.R.S. § 43-501 prescribes when income taxes are payable. Under this section, the tax is required to be paid on the 15th day of the fourth month following the close of the taxable

ARIZONA CORPORATE INCOME TAX RULING

CTR 07-2

(Effective for income tax returns filed on or after January 1, 2008)

Page 2

year. In the case of an S corporation, the tax must be paid by the 15th day of the third month following the close of the taxable year. For unrelated business taxable income of a tax exempt organization the tax must be paid on the 15th day of the fifth month following the close of the taxable year.

A.R.S. § 42-1125.D provides that if a taxpayer fails to pay the amount shown as tax on any return within the time prescribed a penalty of one-half of one percent will be added to the amount shown as tax for each month or fraction of a month the failure continues.

A.R.S. § 42-1125.A provides for a late filing penalty if a taxpayer fails to make and file an income tax return on or before the due date of the return or the due date as extended by the department. The late filing penalty is four and one-half percent of the tax required to be shown on the return for each month or fraction of a month elapsing between the due date of the return, including extensions, and the date on which it is filed.

RULING:

Because A.R.S. § 42-1107 grants an extension of time to file the return, but does not extend the time to pay the tax, and A.R.S. § 43-501 prescribes the time to pay the tax, which is different than the extended filing date, a late payment penalty may be imposed in conjunction with the extension underpayment penalty. Based on the foregoing, the late filing penalty, the late payment penalty and the extension underpayment penalty will apply to a return filed under an extension as noted below.

Example 1:

In a case where a taxpayer files timely under an extension and pays one hundred percent of the tax due by the return's original due date, no penalties will be imposed.

Example 2:

In a case where a taxpayer files timely under an extension and pays ninety percent of the tax by the return's original due date, and the other ten percent at the time the return is filed, there will be no late filing penalty or extension underpayment penalty imposed. However, the department will impose the late payment penalty on the ten percent of the tax not paid by the return's original due date. The penalty will be imposed from the return's original due date to the date the tax was paid.

Example 3:

In a case where a taxpayer files timely under an extension and does not pay ninety percent of the tax due by the return's original due date, but pays the remaining amount due at the time the return is filed, there will be no late filing penalty imposed. However, the department will impose both the late payment penalty and the extension underpayment penalty on the amount that remained unpaid. Both of these penalties will be imposed from the return's original due date to the date the tax was paid.

ARIZONA CORPORATE INCOME TAX RULING
CTR 07-2

(Effective for income tax returns filed on or
after January 1, 2008)

Page 3

Example 4:

In a case where a taxpayer files under an extension, but does not file within the extended due date and has paid at least ninety percent of the tax by the return's original due date and the remainder at the time of filing, the taxpayer would be subject to the late filing penalty and the late payment penalty, but not the extension underpayment penalty. In this case, the late payment penalty would be imposed, on the ten percent of the tax not paid, from the return's original due date until the tax was paid. The late filing penalty would be imposed, on the tax required to be shown on the return, from the return's extended due date until the filing of the return.

Example 5:

In a case where a taxpayer files under an extension, but does not file within the extended due date and has paid less than ninety percent of the tax by the return's original due date, but pays the remainder at the time of filing, the taxpayer would be subject to the late filing penalty, the extension underpayment penalty and the late payment penalty. In this case, the late payment penalty and the extension underpayment penalty would be imposed on the amount that remained unpaid, from the return's original due date until the tax was paid. The late filing penalty would be imposed on the tax required to be shown on the return, from the return's extended due date until the filing of the return.

Example 6:

In the case where a return is filed late without an extension and tax is remaining due, the late filing penalty and the late payment penalty would be imposed, but the extension underpayment penalty would not be imposed. In this case, the late payment penalty would be imposed on the amount that remained unpaid, from the return's original due date until the tax was paid. The late filing penalty would be imposed on the tax required to be shown on the return, from the return's original due date until the filing of the return.

Gale Garriott, Director

Signed: August 13, 2007

Explanatory Notice

The purpose of a tax ruling is to provide interpretive guidance to the general public and to department personnel. A tax ruling is intended to encompass issues of law that are not

ARIZONA CORPORATE INCOME TAX RULING

CTR 07-2

(Effective for income tax returns filed on or after January 1, 2008)

Page 4

adequately covered in statute, case law or administrative rules. A tax ruling is a position statement that provides interpretation, detail, or supplementary information concerning application of the law. Relevant statute, case law, or administrative rules, as well as a subsequent ruling, may modify or negate any or all of the provisions of any tax ruling. See GTP 96-1 for more detailed information regarding documents issued by the Department of Revenue.